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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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12/24/2001

Isaac Levanon

FLVT3000

3619

7590

03/17/2006

3DVU

28 LEVY ESCHOL STREET

RANNANA, 43703

ISRAEL

EXAMINER

TRAN, PHILIP B

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/035,981

Applicant(s)

LEVANON ET AL.

Examiner

Philip B. Tran

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Notice to Applicant

1. This communication is in response to Declaration of Inventors filed 17 January 2006. Claims 1-20 are pending for further examination.

37 CFR 1.131 Affidavit

2. The affidavit filed on 17 January 2006 under 37 CFR 1.131 has been considered but is ineffective to overcome the Skoll reference (U.S. Pat. No. 6,671,424) for the following reasons:

Regarding Reduction to Practice:

In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose. However, "there are some devices so simple that a mere construction of them is all that is necessary to constitute reduction to practice." **In re Asahi /America Inc.**, 68 F.3d 442, 37 USPQ2d 1204, 1206 (Fed. Cir.1995) (Citing **Newkirk v. Lulejian**, 825 F.2d 1581, 3USPQ2d 1793 (Fed. Cir. 1987) and **Sachs v. Wadsworth**, 48 F.2d 928, 929, 9 USPQ 252, 253 (CCPA 1931). The claimed restraint coupling held to be so simple a device that mere construction of it was sufficient to constitute reduction to practice. Photographs, coupled with articles and a technical report describing the coupling in detail were sufficient to show reduction to practice.).

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe

along with a general assertion that the exhibits describe a reduction to practice “amounts essentially to mere pleading, unsupported by proof or a showing of facts” and, thus, does not satisfy the requirements of 37 CFR 1.131(b). **In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974)**. Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. **505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964)** (Affidavit “asserts that facts exist but does not tell what they are or when they occurred.”) [see **MPEP 715.07**].

“The nature of testing which is required to establish a reduction to practice depends on the particular facts of each case, especially the nature of the invention.” **Gellert v. Wanberg, 495 F.2d 779, 783, 181 USPQ 648, 652 (CCPA 1974)** (“an invention may be tested sufficiently ... where less than all of the conditions of actual use are duplicated by the tests”); **Wells v. Fremont, 177 USPQ 22, 24-5 (Bd. Pat. Inter. 1972)** (“even where tests are conducted under bench’ or laboratory conditions, those conditions must fully duplicate each and every condition of actual use’ or if they do not, then the evidence must establish a relationship between the subject matter, the test condition and the intended functional setting of the invention,” but it is not required that all the conditions of all actual uses be duplicated, such as rain, snow, mud, dust and submersion in water) [see **MPEP 2138.05**].

Applicant has provided some screenshots (exhibits A-H) to indicate that the invention was actually reduced to practice. However, the examiner respectfully submits that it is not clear how the screenshots (exhibits A-H) are specifically teaching

applicant's claimed invention. There is no discussion of claims as they relate to the evidence (exhibits A-H) provided (i.e., each of the independent claims 1, 7, 12 and 16) and how the limitations of those claims find support in the evidence provided.

For example, claim 1 recites "a client system for dynamic visualization of image data provided through a network communications channel, said client system comprising: a) a parcel request subsystem, including a parcel request queue, operative to request discrete image data parcels in a priority order and to store received image data parcels in a parcel data store, said parcel request subsystem being responsive to an image parcel request of assigned priority to place said image parcel request in said parcel request queue ordered in correspondence with said assigned priority; and b) an parcel rendering subsystem coupled to said parcel data store to selectively retrieve and render received image data parcels to a display memory, said parcel rendering system providing said parcel request subsystem with said image parcel request of said assigned priority." There is no clear explanation of the relationship between the claimed limitations (underlined) and evidence (exhibits A-H) provided.

In addition, evidence provided is insufficient because text is so small that some exhibits are either totally or partially unreadable. For example, some portions of exhibits B, E, G and H are blurry or blackout.

It does not appear that the invention was reduced to practice as of the filing date of the Skoll reference. Applicant must then show due diligence from before the Skoll reference until an actual reduction to practice or constructive reduction to practice. In this case, applicant has failed to provide this evidence to establish diligence from a date

prior to the date of reduction to practice of the Skoll reference to either a constructive reduction to practice or an actual reduction to practice.

Thus, the affidavit filed on 17 January 2006 is deemed insufficient to remove Skoll reference as prior art.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by Skoll et al (Hereafter, Skoll), U.S. Pat. No. 6,671,424.

Regarding claim 1, Skoll teaches a client system for dynamic visualization of image data provided through a network communications channel, said client system comprising: a) a parcel request subsystem, including a parcel request queue, operative to request discrete image data parcels in a priority order and to store received image

data parcels in a parcel data store, said parcel request subsystem being responsive to an image parcel request of assigned priority to place said image parcel request in said parcel request queue ordered in correspondence with said assigned priority; and b) an parcel rendering subsystem coupled to said parcel data store to selectively retrieve and render received image data parcels to a display memory, said parcel rendering system providing said parcel request subsystem with said image parcel request of said assigned priority (= system of sequencing requests for retrieval of images from the remote store and images to be displayed are cached in accordance with a priority to facilitate image display) [see Abstract and Figs. 2-9 and Col. 3, Lines 16-63].

Regarding claims 2-6, Skoll further teaches the client system of claim 1 wherein said parcel rendering subsystem determines said assigned priority based on a determined optimal image resolution level and wherein said display memory is coupled to an image display of predetermined resolution and wherein said determined optimal image resolution level is based on said predetermined resolution and wherein said assigned priority further reflects the proximity of the image parcel referenced by said image parcel request to a predetermined focal point and wherein said discrete image data parcels are of a first fixed size as received by said parcel request subsystem and of a second fixed size as rendered by said parcel rendering subsystem and wherein said discrete image data parcels each include a fixed-size array of pixel data [see Col. 6, Line 24 to Col. 7, Line 33].

Regarding claim 7, Skoll teaches a portable display client system supporting dynamic visualization of image data provided through a wireless network communications channel, said client system comprising: a) a display of defined resolution suitable for visual presentation of a graphical image, said display including video memory for storing image data representative of said graphical image; b) a network interface coupleable to a wireless network through which to request and receive image data parcels; c) an image parcel data store providing for the storage of image data parcels; d) navigation controls providing input information defining a point of view location relative to said graphical image; and e) a processor coupled to said video memory, network interface, image parcel data store, and navigational controls, said processor operative to selectively request image data parcels of determined resolution through said network interface in a priority order computed relative to the defined resolution of said display [see Abstract and Figs. 2-9 and Col. 3, Lines 16-63].

Regarding claims 8-11, Skoll further teaches the portable display client system of claim 7 wherein said processor includes a priority queue of waiting requests for image data parcels and wherein said processor adds requests for image data parcels to said priority queue reflective of the computed priority of each of said waiting requests and wherein said processor is operative to render said image data parcels from said image parcel data store to said video memory and wherein said image data parcels are received as compressed data blocks within respective network data packets and wherein said respective network data packets each include a fixed block size

compressed image data parcel corresponding to a minimum 16 by 16 array of pixel image data parcel [see Col. 6, Line 24 to Col. 7, Line 33 and Col. 10, Line 31 to Col. 11, Line 18].

Claim 12 is rejected under the same rationale set forth above to claim 7.

Regarding claim 13-15, Skoll further teaches the client system of claim 12 wherein said processor is operative to limit the progressive request of image data parcels to a resolution corresponding to said defined resolution and wherein the priority of a predetermined image parcel within said priority order is determined based on the three-dimensional projection area within said two-dimensional display relative to said image viewpoint of said predetermined image parcel and wherein the priority of said predetermined image parcel is further determined based on the location of said image parcel within said two-dimensional display relative to said image viewpoint [see Col. 6, Line 24 to Col. 7, Line 33].

Claim 16 is rejected under the same rationale set forth above to claim 7.

Regarding claims 17-20, Skoll further teaches the method of claim 16 wherein said step of receiving includes the step of storing said plurality of image parcels in an image store and wherein said step of rendering provides for the selective rendering of said plurality of image parcels having the highest associated resolutions to the

corresponding regions of said image and wherein said step of rendering limits the selective rendering of said image parcels to image parcels having associated resolutions less than a predetermined level and wherein said step of rendering selectively renders said plurality of image parcels as the unique textures for the corresponding regions of said image and wherein said priority order is re-evaluated in response to a change in said viewpoint orientation [see Abstract and Figs. 2-9 and Col. 6, Line 24 to Col. 7, Line 33 and Col. 10, Line 31 to Col. 11, Line 18].

Response to Arguments

5. Applicant's arguments have been fully considered but they are not persuasive because of the following reasons:

It does not appear that the invention was reduced to practice as of the filing date of the Skoll reference. Applicant must then show due diligence from before the Skoll reference until an actual reduction to practice or constructive reduction to practice. In this case, applicant has failed to provide this evidence to establish diligence from a date prior to the date of reduction to practice of the Skoll reference to either a constructive reduction to practice or an actual reduction to practice. Thus, the affidavit filed on 17 January 2006 is deemed insufficient to remove Skoll reference as prior art.

As a result, cited prior art (Skoll reference) still qualifies as a reference for purpose of art rejection and Skoll reference does disclose a system and method as broadly claimed by the applicant. Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter recited in independent claims 1, 7, 12 and 16.

Dependent claims are also rejected at least by virtue of dependency on independent claims and by other reasons shown above. Accordingly, claims 1-20 are respectfully rejected.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A SHORTENED STATUTORY PERIOD FOR REPLY TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE MAILING DATE OF THIS ACTION. IN THE EVENT A FIRST REPLY IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CAR 1.136(A) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT, HOWEVER, WILL THE STATUTORY PERIOD FOR REPLY EXPIRE LATER THAN SIX MONTHS FROM THE MAILING DATE OF THIS FINAL ACTION.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tran whose telephone number is (571) 272-3991. The Group fax phone number is (571) 273-8300. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar, can be reached on (571) 272-4006.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Philip B. Tran
Primary Examiner
Art Unit 2155
March 14, 2006